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10/729,000

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John M. Guynn

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08/16/2005

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EXAMINER

VALENTI, ANDREA M

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 08/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|--------------------------------|--|
| Office Action Summary | Application No. 10/729,000 | Applicant(s) GUYNN, JOHN M. | |
| | Examiner Andrea M. Valenti | Art Unit 3643 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 16-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

11

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8, 10-13, 16, 18, 19, 20-26 and 29 are rejected under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 6,122,778 to Cohen.

Regarding Claim 1, Cohen teaches a restraint device for use in holding or restraining a child (Cohen Col. 1 line 13-15) in a desired position, comprising: a pair of opposing handles (Cohen #70, Col. 3 line 60-62 and #132); and attachment means (Cohen #32, 40, 54) for attaching the pair of opposing handles adjacent to a child's body on opposite sides of a child's center of gravity (Cohen #70 or #132) during use, the attachment means being configured so that at least one handle lies next to a child's body or clothing while the restraint device is worn so that a hand gripping the handle remains close to the child's body during use and so that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body, i.e. the handles are configured to be gripped by a person's hand (Cohen Fig. 1 and 2 illustrates a person grappling the handles on the vest and that the handles are configured to receive the person's gripping hand; Cohen Col. 3 line 60-62 and Col. 4 line 16-20 teaches that all of the straps that make up the vest structure all function as gripping handles for a person to grab hold off and thus examiner maintains that element

Art Unit: 3643

#70 is in fact a handle in addition to providing structural support to the vest design; Also, Fig. 9 #132).

Regarding Claim 2, Cohen inherently teaches the handles comprising at least one loop comprising at least one of a fabric, plastic, elastomer, metal, ceramic, or composite material (Cohen #70 or #132; "Fabric" is defined as a "textile"), the loop having an opening that easily accommodates insertion of a person's fingers there through while gripping the loop (Cohen Fig. 1 shows the back handles are loops that receive a person's fingers and thus element #70 is the same as the handle illustrated in Fig. 1 and thus element #70 accommodates insertion of fingers.

Regarding Claim 3, Cohen teaches the attachment means comprising a single sheet or strap of a flexible material configured so as to wrap at least partially around a child's body (Cohen #32).

Regarding Claim 4, Cohen teaches the attachment means comprising a plurality of straps configured so as to wrap at least partially around a child's torso or limbs (Cohen #36, 32, 40, 54).

Regarding Claim 5, Cohen teaches the attachment means comprising one or more fastening devices configured so as to releasably attach the attachment means to a child's body (Cohen #34 and 38).

Regarding Claim 6, Cohen teaches the fastening devices comprising one or more of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet (Cohen Fig. 3 #34 and 38 and Col. 8 line 19-20).

Regarding Claim 7, Cohen teaches the attachment means configured so as to position the handle means at or near at least one of child's spine or sternum (Cohen Fig. 1 and 2).

Regarding Claim 8, Cohen teaches the attachment means configured so as to position the handle means at or near a center of at least one of a child's chest, upper back, lower back, or stomach (Cohen Fig. 1 and 2).

Regarding Claims 10 and 11, Cohen teaches a restraint device for use in holding or restraining a child (Cohen Col.1 line 13-15) in a desired position comprising: a flexible corset or harness sized and configured so as to wrap around at least a portion of a child's body, wherein the corset or harness comprises a plurality of flexible straps (Cohen Fig. 8 #32, 36) that are laterally spaced apart that wrap at least partially around the child's torso but that expose at least a portion of the child's body between the flexible straps so as to permit washing (Cohen Col. 3 line 52 and Col. 7 line 52) of the exposed portion of the child's body between the flexible straps; at least one fastening device (Cohen #38 and 34) connected to the corset or harness that permits selective fastening and unfastening of the corset or harness around at least a portion of the child's body; and a handle (Cohen Fig. 8 #70 or Fig. 9 #132) attached to the corset or harness in a manner so that the handle is positioned next to the child's body or clothing adjacent (the term adjacent can be interpreted as nearby, next to, bordering) to the spine, sternum, stomach or chest of the child's body so that a hand gripping the handle remains close to the child's body when the restraint device is in use; the handles are configured to be gripped by a person's hand (Cohen Fig. 1 and 2 illustrates a person

Art Unit: 3643

grapping the handles on the vest and that the handles are configured to receive the person's gripping hand; Cohen Col. 3 line 60-62 and Col. 4 line 16-20 teaches that all of the straps that make up the vest structure all function as gripping handles for a person to grab hold off and thus examiner maintains that element #70 is in fact a handle in addition to providing structural support to the vest design). Cohen teaches the handle comprising a loop (Cohen Fig. 9 #132 and 54; Also, Fig. 9 #132).

Regarding Claim 12, Cohen teaches the handle inherently having sufficient friction that it can be reliably gripped without significant slippage when contacted with soapy water (Cohen Col. 3 line 52).

Regarding Claim 13, Cohen teaches the corset or harness inherently comprising at least one of a fabric, plastic, elastomer, metal or composite material (Cohen #32 and "Fabric" is defined as a "textile").

Regarding Claim 16, Cohen teaches the corset or harness further comprising one or more flexible straps sized and configured so as to wrap around at least one of a child's shoulders or legs (Cohen Fig. 8 #40 and 54).

Regarding Claim 18, Cohen teaches the fastening device comprises at least one of a hook and loop system, a buckle, a tie, a snap, a latch, or a ratchet (Cohen Fig. 8 #4 and 38).

Regarding Claim 19, Cohen teaches a second handle (Cohen Fig. 8 there are two elements #70 or #132) attached to the corset or harness in a manner so that the second handle is positioned at or near a central balancing plane on an opposite side of the child's body relative to the handle when the restraint is in use.

Regarding Claim 29, Cohen teaches a cushioning material separate from the corset or harness, disposed on at least a portion of an inner surface of the corset or harness so as to shield and protect soft, sensitive skin of a baby or young child from the corset or harness when in use, the cushioning material inherently comprising at least one member selected from the group comprising fleece, felt, other soft and flexible fabrics, silicone, other polymeric gel materials, polyurethane foam, other soft and flexible foams or a friction enhancing material (Cohen #18 "fabric" is defined as a "textile" and element #18 is a garment i.e. textile); the handles are configured to be gripped by a person's hand (Cohen Fig. 1 and 2 illustrates a person grasping the handles on the vest and that the handles are configured to receive the person's gripping hand; Cohen Col. 3 line 60-62 and Col. 4 line 16-20 teaches that all of the straps that make up the vest structure all function as gripping handles for a person to grab hold off and thus examiner maintains that element #70 is in fact a handle in addition to providing structural support to the vest design).

Regarding Claim 20, Cohen as modified teaches a method of holding or restraining a child in a desired position while giving the child a bath comprising, releasably attaching a handle (Cohen Fig. 8 and Col. 3 line 52 and Col. 7 line 52, the handle is releasably attached to the body of the child, thus when the vest is removed the handle is removed from the body and when the vest is put on the handle is attached to the body) to the child so that the handle is positioned at or near a central balancing plane of the child's body between the child's head and buttocks; and gripping the handle

Art Unit: 3643

so as to hold or restrain the child in at least one of a sitting, standing, or upright position within a container or basin that holds therein a quantity of water.

Regarding Claim 21, Cohen as modified inherently teaches the child being held in at least one of a sitting or standing position during at least a portion of time in which the child is held or restrained within the container or basin (Cohen Col. 3 line 52 at some point the child inherently will be standing in the basin and Cohen Col.1 line 23-24).

Regarding Claim 22, Cohen as modified teaches the handle (Cohen Fig. 1 and 2) is attached adjacent to the child's spine or sternum

Regarding Claim 23, Cohen as modified teaches the handle (Cohen #70 or #132) is attached adjacent to the child's side.

Regarding Claim 24, Cohen as modified teaches releasably (Cohen Fig. 8 #72 and there are two elements #70 or #132) attaching a second handle on a side of the child's body opposite the handle so that the second handle is positioned at or near the central plane of the child's body.

Regarding Claim 25, Cohen as modified teaches gripping both handles while lifting the child into or out of the container or basin (Cohen Fig. 1 and 2 and Col. 3 line 52).

Regarding Claim 26, Cohen as modified teaches the container or basin is a bath tub (Cohen Col. 3 line 52).

Claim Rejections - 35 USC § 103

Art Unit: 3643

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9, 17, and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,122,778 to Cohen in view of U.S. Patent No. 5,606,744 to Lindy.

Regarding Claims 9, 17 and 28, Cohen is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use. However, Lindy teaches a head restraining system configured to restrain a child's head in a desired position relative to the child's body (Lindy #10 and abstract). It would have been obvious to one of ordinary skill in the art to modify the teachings of Cohen with the teachings of Lindy at the time of the invention to prevent head injury when the child is unstable as taught by Lindy (Lindy Col. 1 line 11-35).

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,122,778 to Cohen in view of U.S. Patent No. 5,514,019 to Smith.

Regarding Claim 27, Cohen teaches a restraint device for use in holding or restraining a child (Cohen Col. 1 line 13-15) in a desired position, comprising a flexible corset or harness (Cohen Fig. 8) sized and configured so as to wrap around at least a portion of a child's body; at least one fastener (Cohen Fig. 8 #34) connected to the corset or harness that permits selective fastening and unfastening of the corset or

Art Unit: 3643

harness around at least a portion of the child's body; and a releasable handle (Cohen Fig. 8 #70 and 72) positioned next to the child's body or clothing at or near a central balancing plane of the child's body so that a hand gripping the handle remains close to the child's body when the restraint device is in use, the releasable (Cohen Fig. 8 #72) handle comprising: a pair of straps (Cohen Fig. 8 there are two element #70) that may be selectively connected and unconnected that form a loop when selectively attached; the handles are configured to be gripped by a person's hand (Cohen Fig. 1 and 2 illustrates a person grapping the handles on the vest and that the handles are configured to receive the person's gripping hand; Cohen Col. 3 line 60-62 and Col. 4 line 16-20 teaches that all of the straps that make up the vest structure all function as gripping handles for a person to grab hold off and thus examiner maintains that element #70 is in fact a handle in addition to providing structural support to the vest design).

Cohen is silent on an attachment means for selectively connecting and unconnecting the pair of cooperating straps; however, Smith teaches an attachment means for loop handles on a restraint device (Smith Fig. 3 #13a and 13b). It would have been obvious to one of ordinary skill in the art to modify the teachings of Cohen with the teachings of Smith at the time of the invention since the modification is merely the selection of an old and notoriously well-known fastener selected for its ergonomic features for quick and ease release and attachment while the person is wearing the device. Furthermore, it would have been obvious to one of ordinary skill in the art to modify the teachings of Cohen with the addition of additional releasable straps taught by Smith at the time of the invention for the advantage of having a larger surface area to

Art Unit: 3643

hold onto to and to reach for if the person wearing the device begins to fall. Cohen does teach releasable handle #132, the modification would merely involve the shifting/duplicating location of a known element to provide support to an additional part of the body for a multiple effect.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 2,661,888 to Sidlinger.

Regarding Claim 1, Sidlinger teaches restraining device comprising a pair of opposing handles (Sidlinger #20), each configured to be gripped by a person's hand; and attachment means (Sidling #16), the attachment means being configured so that at least one handle lies next to a child's body or clothing while the restraint device is worn so that a hand gripping the handle remains close to the child's body during use and so that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body.

Regarding Claim 2, Sidlinger teaches the handles comprise at least one loop, the loop comprising at least one of a fabric, plastic, elastomer, metal, ceramic, or composite, the loop having an opening that easily accommodates insertion of a person's fingers there through while gripping the loop (Sidlinger #20).

Regarding Claim 3, Sidlinger teaches the attachment means comprising a single sheet or strap of flexible material configured so as to wrap at least partially around a child's body (Sidlinger #14).

Regarding Claims 4 and 27, Sidlinger teaches the attachment means comprises a plurality of straps configured so as to wrap at least partially around a child's torso or limbs (Sidlinger #12 and 13).

Regarding Claim 5, Sidlinger teaches the attachment means comprising one or more fastening devices configured so as to releasably attach the attachment means to a child's body (Sidlinger #16).

Regarding claim 6, Sidlinger teaches the fastening device is a buckle (Sidlinger #16).

Regarding Claims 7 and 8, Sidlinger teaches the attachment means is configured so as to position the handles at or near at least one of a child's spine, sternum, chest, upper back, lower back, or stomach.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,661,888 to Sidlinger in view of U.S. Patent No. 5,606,744 to Lindy.

Regarding Claims 9 and 28, Sidlinger is silent on a head restraining system configured to restrain a child's head in a desired position relative to the child's body when the restraint device is in use. However, Lindy teaches a head restraining system configured to restrain a child's head in a desired position relative to the child's body (Lindy #10 and abstract). It would have been obvious to one of ordinary skill in the art to modify the teachings of Sidlinger with the teachings of Lindy at the time of the invention to prevent head injury when the child is unstable as taught by Lindy (Lindy Col. 1 line 11-35).

Response to Arguments

Applicant's arguments filed 2 June 2005 have been fully considered but they are not persuasive.

Examiner maintains that Cohen element #70 is in fact a handle that is configured to be gripped by a person's hand and that at least a portion of the hand gripping the handle is disposed between at least a portion of the handle and the child's body. Releasable handle. All of the straps that constitute the device are design to be gripped as handles. Cohen Col. 3 line 60-65 and Col. 4 line 15-20 teach that the straps are numerous hand holds that are intended to be gripped and are thus handles. Cohen Fig. 1 and 3 illustrates a person gripping a handle. The handle of Fig. 1 and Fig. 2 is the same design as element #70. In addition to providing structure to the device, the straps also are capable and intended to be gripped to support and lift the person wearing the device. Thus, the examiner maintains that Cohen does teach a handle via element #70. Also, when the device of Cohen is used without element #18 it is inherently capable for

Art Unit: 3643

one to grip around element #70 between the handle and the body of the person wearing the device.

Cohen element #132 could also be interpreted as the handle that is near/adjacent the child's spine, sternum, stomach, or chest since the claim limitation is broadly presented.

Furthermore, applicant has claimed in claim 7 that the handles are located at or near at least one child's spine or sternum. Examiner maintains that element #70 is near the spine. In other words, element #70 is close to, adjacent, next to, bordering the spine. The also applies for claim 8, element #70 is near the stomach.

Applicant has not structurally claimed how the head restraint and the corset function together, nor has applicant claimed the structure of the head restraint. Therefore, examiner maintains that Lindy teaches a restraint that does in fact restrain the child's head in a desired position relative to the child's body since the device of Lindy prohibits the child's head from bending backwards. Applicant has not claimed that the head is totally immobile.

Examiner maintains that applicant has not patentably distinguished over the teachings of the cited prior art.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3643

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Andrea M. Valenti
Patent Examiner
Art Unit 3643

10 August 2005



Peter M. Poon
Supervisory Patent Examiner
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